

1 ANTHONY MCKNIGHT

: CORAM

2  
3 CLAIMANT

: WORKERS' COMPENSATION  
COMMISSIONER  
HON. STEPHEN B. DELANEY

4  
5 VS.

6  
7  
8 STATE OF CONNECTICUT  
DEPARTMENT OF CORRECTIONS

: STATE OF CONNECTICUT

9  
10 EMPLOYER

: FIRST DISTRICT OFFICE

11 GAB ROBINS NORTH AMERICA, INC.

: FILE NO. 300008112

12  
13 INSURER

14  
15 RESPONDENTS

: MAY 5, 2010

16  
17 A P P E A R A N C E S

18  
19 Anthony McKnight, P.O. Box 304, West Haven, CT 06516,  
20 appeared pro se.

21  
22 Donna Summers, Assistant Attorney General, P. O. Box  
23 120, Hartford, CT 06141-0120, represented the  
24 Respondent-Employer, and GAB Robins North America, Inc.

25  
26 WILFRED LEON  
CHIEF HEARING REPORTER  
27 FIRST DISTRICT OFFICE

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No witnesses proffered by the parties.

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1 (WHEREUPON, THE FORMAL HEARING COMMENCED  
2 AT 1:01 p.m.)

3 THE COMMISSIONER: On the record.  
4 Good afternoon everyone.

5 For the record, my name is Stephen B.  
6 Delaney, Workers' Compensation Commissioner,  
7 Acting in the First District. Today is May  
8 5th, 2010. We're going to take up the  
9 Formal matter of Anthony McKnight, Sr v.  
10 Department of Corrections, File Number  
11 300008112.

12 This is a Formal hearing being held  
13 pursuant to notice sent to the parties on  
14 March 23rd, 2010. And the noticed issue is  
15 a claim under 31-290a for a Wrongful  
16 Discharge/Discrimination, which went out in  
17 error, and I think the parties will agree  
18 that, when I have an opportunity to discuss  
19 it with them, what the issue is that I will  
20 be deciding.

21 Counsel's present for the State of  
22 Connecticut, and Mr. McKnight is  
23 representing himself.

24 Mr. McKnight, just before we begin, I've  
25 advised you and I'll give you an opportunity  
26 to retain counsel and you have chosen to  
27 represent yourself, correct?

1 MR. MCKNIGHT: That's correct.

2 THE COMMISSIONER: Okay. Do you  
3 have any -- you want to identify yourself,  
4 Attorney Summers.

5 MS. SUMMERS: Yes. Donna Summers  
6 representing the State of Connecticut,  
7 Department of Corrections, and Department of  
8 Administrative Services.

9 THE COMMISSIONER: Okay.

10 Mr. McKnight, is there some exhibits you  
11 would like to offer, sir?

12 MR. MCKNIGHT: Yes, sir.

13 First, I would like to offer Exhibit A,  
14 it's a five-page document from Helen Kemp  
15 from the Retirement Services Division.

16 THE COMMISSIONER: Is there any  
17 objection?

18 MS. SUMMERS: No objection.

19 THE COMMISSIONER: All right,  
20 that's a full exhibit.

21 (RECEIVED AND MARKED CLAIMANT'S  
22 EXHIBIT A)

23 MR. MCKNIGHT: Claimant's Exhibit  
24 B, Case Summary from Michael Cozzolino from  
25 the Department of -- or the Comptrollers  
26 Office, department of Retirement Services  
27 Division.

1 MS. SUMMERS: Commissioner, I don't  
2 under -- don't know the relevance of that,  
3 but I think it can come in under 31-298,  
4 and so, we would allow it -- we would let it  
5 come in under that.

6 THE COMMISSIONER: So it's a full  
7 exhibit.

8 MR. MCKNIGHT: I don't understand  
9 the 31 -- we're doing 5-142 --

10 THE COMMISSIONER: It gives me wide  
11 discretion to allow anything I want -- a  
12 Commissioner -- in other words, it's coming  
13 in as a full exhibit. She could object to  
14 its relevancy and ask you to explain your  
15 relevancy, but she's just figuring I'm going  
16 to let that in, and under 31-298, or  
17 whatever it is, I have wide discretion about  
18 -- the Act -- the Rules of Evidence in  
19 workers' compensation are not so strictly  
20 enforced as they are in court; so, there's  
21 no objection. It's coming in. That's what  
22 she's saying. I think Attorney Summers is  
23 probably going to -- anticipated my ruling,  
24 I was going to let it in, okay.

25 MR. MCKNIGHT: Okay.

26 THE COMMISSIONER: So that's coming  
27 in.

(RECEIVED AND MARKED CLAIMANT'S  
EXHIBIT B)

MR. MCKNIGHT: Claimant's Exhibit  
C, we have an Employee Separation form.

THE COMMISSIONER: Any objection?

MS. SUMMERS: The only concern I  
would have, Commissioner, is that I would  
ask that if that's going to come in, that  
all of the exhibits that were introduced in  
the prior Formal hearing before Commissioner  
Miles that you take administrative notice of  
the existing file in this matter that  
includes all of the exhibits that were put  
into that Formal hearing, as well as the  
prior rulings and things like that that are  
in the -- exist in the file so that you have  
-- so that your consideration is complete.

THE COMMISSIONER: Well, I presume  
that you were going to ask me to take  
administrative notice of Commissioner  
Miles's Finding and Dismissal of May 21,  
2008 and the Appellate Court of March 23,  
1999 of that case?

MS. SUMMERS: We would. And also  
in that record, Commissioner, that was  
considered by Commissioner Miles -- and I  
don't recall the number -- is the Claimant's

1 handwritten resignation from 1990 -- May of  
2 1995. We would just ask if you'd take  
3 administrative notice of the entire record  
4 then you'll be able to take administrative  
5 notice of that exhibit as well.

6 THE COMMISSIONER: Do you have an  
7 objection, Mr. McKnight?

8 MR. MCKNIGHT: I object. I never  
9 resigned, nor did I admit to resigning, and  
10 nor the Commissioner said that I resigned.  
11 He said I offered a letter of resignation,  
12 and the effective date on that letter was to  
13 be determined by the Claimant.

14 THE COMMISSIONER: Okay, I don't  
15 know what --

16 MR. MCKNIGHT: I mean, if she wants  
17 to enter it into evidence, fine.

18 THE COMMISSIONER: Okay.

19 MR. MCKNIGHT: If she just wants to  
20 put it in, fine.

21 THE COMMISSIONER: I'll put them  
22 all in, and what we can do, Mr. McKnight,  
23 because I'm sure you probably don't have  
24 copies of it, I'll take administrative  
25 notice of all the prior exhibits in this  
26 case, okay.

27 MR. MCKNIGHT: Okay.



1 THE COMMISSIONER: So Claimant's C  
2 is a full exhibit.

3 (RECEIVED AND MARKED CLAIMANT'S  
4 EXHIBIT C)

5 MR. MCKNIGHT: I have Claimant's  
6 Exhibit D, Attorney General Blumenthal June  
7 8th, 1990 letter to Comptroller Caldwell.

8 THE COMMISSIONER: Okay. Any  
9 objection, Attorney Summers?

10 MS. SUMMERS: No, Commissioner.

11 THE COMMISSIONER: All right, full  
12 exhibit.

13 (RECEIVED AND MARKED CLAIMANT'S  
14 EXHIBIT D)

15 MR. MCKNIGHT: Claimant's Exhibit  
16 E, I have a letter from Attorney Blumenthal  
17 -- Attorney General Blumenthal to the  
18 Honorable Jesse M. Frankl, Workers'  
19 Compensation Commission.

20 THE COMMISSIONER: Any objection?

21 MS. SUMMERS: No objection.

22 THE COMMISSIONER: Okay, full  
23 exhibit.

24 (RECEIVED AND MARKED CLAIMANT'S  
25 EXHIBIT E)

26 MR. MCKNIGHT: I have Claimant's  
27 Exhibit F, which is a letter from the New

1 England Independent Medical Examination  
2 referred to -- referred by Commissioner  
3 Miles in the decision. This is Doctor  
4 Goodman.

5 THE COMMISSIONER: Is that one of  
6 the exhibits, Mr. McKnight, in the original?

7 MR. MCKNIGHT: Right.

8 MS. SUMMERS: It is -- it is Doctor  
9 Goodman's report. I believe it was entered  
10 into evidence as Respondent's Exhibit 4, it  
11 was the state's IME, and it is appended to  
12 the Form 36 that was approved in May 1994.

13 MR. MCKNIGHT: I'm not entering it  
14 for that effect, so --

15 THE COMMISSIONER: All right. But  
16 do you have an objection to that coming in?

17 MS. SUMMERS: No.

18 THE COMMISSIONER: It's a full  
19 exhibit.

20 (RECEIVED AND MARKED CLAIMANT'S  
21 EXHIBIT F)

22 MR. MCKNIGHT: I have here G, a  
23 Finding and Dismissal of Commissioner Miles.

24 THE COMMISSIONER: Okay.

25 MS. SUMMERS: No objection.

26 THE COMMISSIONER: Okay, full  
27 exhibit.

1 (RECEIVED AND MARKED CLAIMANT'S  
2 EXHIBIT G)

3 MR. MCKNIGHT: I have Claimant's  
4 Exhibit H, that's the Formal hearing  
5 transcript of the then Personnel Officer,  
6 Linda Fowler.

7 MS. SUMMERS: Commissioner, there's  
8 two pages of transcript that are being  
9 offered as Claimant's Exhibit H on pages 3  
10 and 9. I believe the entire transcript  
11 should be a part of your file of which  
12 you've taken administrative notice of. So  
13 given that, we don't have any objection to  
14 those few pages.

15 THE COMMISSIONER: It's a full  
16 exhibit.

17 (RECEIVED AND MARKED CLAIMANT'S  
18 EXHIBIT H)

19 MR. MCKNIGHT: I have Claimant's  
20 Exhibit I, which is the Report of  
21 Occupational Injury or Disease To an  
22 Employee dated 4/26/93.

23 THE COMMISSIONER: Is that a First  
24 Report of Injury, Mr. McKnight?

25 MR. MCKNIGHT: Yes.

26 THE COMMISSIONER: All right, thank  
27 you.

1 MR. MCKNIGHT: It's the very first  
2 Report of Injury that happened approximately  
3 maybe 15 minutes after the incident.

4 THE COMMISSIONER: Okay.

5 MS. SUMMERS: No objection,  
6 Commissioner.

7 THE COMMISSIONER: Full exhibit.

8 (RECEIVED AND MARKED CLAIMANT'S  
9 EXHIBIT I)

10 MR. MCKNIGHT: Claimant's Exhibit  
11 J, the medical incident report from the  
12 Connecticut Department of Corrections dated  
13 4/26/93. That's two pages.

14 THE COMMISSIONER: Any objection?

15 MS. SUMMERS: No.

16 THE COMMISSIONER: Full exhibit.

17 (RECEIVED AND MARKED CLAIMANT'S  
18 EXHIBIT J)

19 MR. MCKNIGHT: I have Claimant's  
20 Exhibit K, which is from Department of  
21 Corrections, which is notification of  
22 process in the workers' compensation claim.

23 MS. SUMMERS: No objection.

24 THE COMMISSIONER: Full exhibit.

25 (RECEIVED AND MARKED CLAIMANT'S  
26 EXHIBIT K)

27 MR. MCKNIGHT: I have Claimant's L,

1 which is the affirmation of the State  
2 Appellate Court.

3 MS. SUMMERS: No objection.

4 THE COMMISSIONER: Full exhibit.

5 (RECEIVED AND MARKED CLAIMANT'S  
6 EXHIBIT L)

7 MR. MCKNIGHT: I have Claimant's  
8 Exhibit M, Compensation Review Board, and I  
9 have the Hudson v. Connecticut Department of  
10 Correction, Compensation Review Board  
11 claim -- case.

12 SUMMERS: No objection.

13 THE COMMISSIONER: Okay, full  
14 exhibit.

15 (RECEIVED AND MARKED CLAIMANT'S  
16 EXHIBIT M)

17 MR. MCKNIGHT: I have Claimant's  
18 Exhibit N, which is Doctor -- the primary  
19 treating physician, Doctor Michael Luchini's  
20 medical report.

21 THE COMMISSIONER: Any objection?

22 MS. SUMMERS: No.

23 THE COMMISSIONER: Full exhibit.

24 (RECEIVED AND MARKED CLAIMANT'S  
25 exhibit N)

26 MR. MCKNIGHT: And I would, just  
27 for the record, O, this is -- I'll read you

1 this with my brief, the Memorandum of Law,  
2 5-142 and the statute 5-169(i), which is the  
3 retirement disability compensation.

4 MS. SUMMERS: No objection.

5 THE COMMISSIONER: Okay.

6 (RECEIVED AND MARKED CLAIMANT'S  
7 EXHIBIT O)

8 MR. MCKNIGHT: And I also have  
9 Claimant's P, DeLarosa v. State of  
10 Connecticut.

11 MS. SUMMERS: No objection.

12 THE COMMISSIONER: All right,  
13 that's a full exhibit.

14 (RECEIVED AND MARKED CLAIMANT'S  
15 EXHIBIT P)

16 THE COMMISSIONER: So A through P  
17 are full exhibits.

18 Attorney Summers, did you have exhibits  
19 you would like to offer?

20 MS. SUMMERS: Yes, Commissioner. I  
21 just have two.

22 One is the decision that was issued by the  
23 Superior Court for New Haven in the matter  
24 of Anthony McKnight v. John Armstrong. The  
25 decision date is July 3 of 2001 of which you  
26 could take administrative notice anyway, but  
27 we've marked it as Exhibit 1.

1 THE COMMISSIONER: Do you have any  
2 objection, Mr. McKnight?

3 MR. MCKNIGHT: I would -- I mean,  
4 as far as relevance.

5 THE COMMISSIONER: I don't know  
6 what the relevance is either, but --

7 MR. MCKNIGHT: What is the  
8 relevance of that?

9 MS. SUMMERS: The -- Commissioner,  
10 Mr. McKnight sought a writ of -- after the  
11 Appellate Court decision in this matter. He  
12 sought a writ of mandamus, quote,  
13 "commanding the Respondent to pay him five  
14 years of salary pursuant to Section 5-142a,  
15 as well as money damages, and that  
16 determination -- that request for benefits  
17 under 5-142a. And he also referenced it's  
18 intersection with his -- with disability  
19 retirement and hazardous duty retirement  
20 which, as I understand it, is the essence of  
21 the issues here.

22 This -- the Appellate -- Superior Court  
23 dismissed that claim against the  
24 Commissioner (sic), and it's a final  
25 decision.

26 THE COMMISSIONER: Against the  
27 Claimant, not me.

1 MS. SUMMERS: Yes, dismissed it --  
2 I'm sorry, yes. Dismissed -- the claim was  
3 made against the Commissioner, and the  
4 Superior Court dismissed the claim, and it  
5 is a final decision.

6 THE COMMISSIONER: And it was not  
7 appealed?

8 MS. SUMMERS: It was not appealed.

9 THE COMMISSIONER: Mr. McKnight,  
10 your turn.

11 MR. MCKNIGHT: Okay, the claim  
12 wasn't appealed. As the Court referenced --  
13 the Court referenced award of 31-290a, which  
14 was denied, and subsequently I'm back here  
15 --

16 THE COMMISSIONER: Right.

17 MR. MCKNIGHT: -- because I didn't  
18 exhaust my administrative remedies. So  
19 that's why we're here. I don't know how  
20 this in particular has anything to do with  
21 5-142, because 5-142 is an exclusive remedy.

22 THE COMMISSIONER: I thought that  
23 Attorney Summers said that was a claim for  
24 writ of mandamus compelling the Commissioner  
25 of Corrections to make a payment under that  
26 section of the statute for five years.

27 Is that not -- I don't have it in front of



1 me. So, is that what that says?

2 MS. SUMMERS: Yes, that was what  
3 the claim was.

4 MR. MCKNIGHT: No.

5 THE COMMISSIONER: Well, let me  
6 take a look at it, because I can read it and  
7 maybe we can --

8 MS. SUMMERS: (Handing)

9 THE COMMISSIONER: (Receiving and  
10 reading).

11 MR. MCKNIGHT: As you can see on  
12 the last page -- I mean, the last paragraph  
13 -- so -- I mean I'm here. So, I don't know.

14 THE COMMISSIONER: Well, then, Mr.  
15 McKnight, how does this hurt you?

16 MR. MCKNIGHT: I mean, I just don't  
17 want to waste too much time on 31-290a  
18 issues. I'm just here for --

19 THE COMMISSIONER: I don't want to  
20 waste any time on it either, because we've  
21 discussed in previous hearings that the law  
22 of your case is -- isn't what it is under  
23 31-290a. But for whatever this is worth --

24 MR. MCKNIGHT: I mean -- Okay.

25 THE COMMISSIONER: -- and I  
26 appreciate your argument, that you have to  
27 exhaust your -- that's what Judge Nevins

1 (phonetic spelling) wrote.

2 MR. MCKNIGHT: Yes.

3 THE COMMISSIONER: I'll allow it  
4 for whatever it's worth. I really don't  
5 know what it's worth, but -- so it's a  
6 Motion To Dismiss, was granted, and  
7 basically you hadn't excused your  
8 administrative -- okay, so that's a full  
9 exhibit.

10 (RECEIVED AND MARKED RESPONDENT'S  
11 EXHIBIT 1)

12 MS. SUMMERS: The second and last  
13 exhibit for the State at this time,  
14 Commissioner, would be a June 7th, 2000  
15 letter that was sent to Mr. McKnight by  
16 Elizabeth Hendrickson who is from the  
17 Retirement and Benefits Services Division.

18 THE COMMISSIONER: June 7th of?

19 MS. SUMMERS: Of 2000.

20 THE COMMISSIONER: Okay.

21 MS. SUMMERS: And it discusses the  
22 same kinds of issues that are addressed in  
23 Claimant's Exhibit A.

24 THE COMMISSIONER: Has Mr. McKnight  
25 seen that?

26 MS. SUMMERS: Yes, I gave him a  
27 copy.

1 MR. MCKNIGHT: I have one. I have  
2 one.

3 THE COMMISSIONER: Okay. Do you  
4 have an objection, Mr. McKnight?

5 MR. MCKNIGHT: Oh, no-no. No.

6 THE COMMISSIONER: Okay, full  
7 exhibit.

8 MS. SUMMERS: Thank you.

9 (RECEIVED AND MARKED RESPONDENT'S  
10 EXHIBIT 2)

11 THE COMMISSIONER: You know, before  
12 -- and forgive me, please, it's my fault.  
13 We should read and define what the issue is  
14 going to be.

15 I'm looking at our notes of -- my notes,  
16 Mr. McKnight, from March 10th, 2010, and I  
17 think we agreed that, in fact, we were not  
18 going to be retrying the 31-290a claim.

19 MR. MCKNIGHT: Right.

20 THE COMMISSIONER: But your claim  
21 was that you're entitled to benefits under  
22 Connecticut General Statutes 5-142(a) from  
23 your date of injury, meaning 4/26/93, to the  
24 present; is that correct?

25 MR. MCKNIGHT: From the day I left  
26 work injured, yeah.

27 THE COMMISSIONER: That's 4/26.

1 MR. MCKNIGHT: No, that's September  
2 19th, 1993. I actually left work injured  
3 due to the injury.

4 THE COMMISSIONER: I thought I had  
5 -- well, I thought that I read that you had  
6 two dates of injury: You had one in 89, and  
7 the other was 93. I had June 26th, 93. Is  
8 that not right?

9 MR. MCKNIGHT: That's the date of  
10 injury. But I was being treated, and I was  
11 allowed to go to work and do some 3rd shift  
12 assignment.

13 THE COMMISSIONER: Okay. So what  
14 is your --

15 MR. MCKNIGHT: The last date of my  
16 work was September the 19th of 1993 --

17 THE COMMISSIONER: Okay.

18 MR. MCKNIGHT: -- that I was --  
19 the last day I went to the building.

20 THE COMMISSIONER: Okay. So you're  
21 looking from September 19th, 1993 through  
22 the present?

23 MR. MCKNIGHT: Through the present.

24 THE COMMISSIONER: All right. And  
25 did you want to say anything, Mr. McKnight,  
26 or did you want to --

27 THE REPORTER: Did you want to

1 state that's the issue for the Formal,  
2 Commissioner?

3 THE COMMISSIONER: Yes, I'm sorry.  
4 We agree that that's what the issue is?

5 MR. MCKNIGHT: The basic issue is  
6 my 5-142 benefits as it relates to salary,  
7 and health, medical expenses, et cetera, et  
8 cetera --

9 THE COMMISSIONER: Right.

10 MR. MCKNIGHT: -- and my credit of  
11 service, which, of course, goes along with  
12 the --

13 THE COMMISSIONER: Yeah, you and I  
14 talked about that before. I don't think I  
15 can order them to do that.

16 MR. MCKNIGHT: No, you can't give  
17 me the credit. You can't order them to give  
18 me the credit for the service, but you can  
19 give me my back wages, et cetera, et cetera,  
20 and that will, in turn, allow them to credit  
21 me for my services. The service dates for  
22 the wages, in fact, give me my credits.

23 THE COMMISSIONER: Presuming you  
24 prevail, that's correct.

25 MR. MCKNIGHT: Uh-hum.

26 THE COMMISSIONER: You'd have to go  
27 to some other agency, or whomever, to say,

1           hey, give me credit for whatever that is.

2           MR. MCKNIGHT: No, all I need --  
3           basically, the Retirement Division said all  
4           I need is this, the decision of Commissioner  
5           Miles clarifying, where he says that I  
6           received the injuries -- I have a work  
7           compensable injury, but no one had -- no one  
8           in the Commissioner gave me the benefits.

9           See, the Retirement Division can't give me  
10          my benefits -- or they won't give me my  
11          benefits. I don't know, but I'm just --

12          THE COMMISSIONER: Okay. Well --

13          MR. MCKNIGHT: We're just here to  
14          clarify that so that you can give me an  
15          order of award so that they can give me my  
16          benefits, maybe, I don't know.

17          THE COMMISSIONER: Is there  
18          anything else that you wanted to say, Mr.  
19          McKnight?

20          MR. MCKNIGHT: Sure.

21          THE COMMISSIONER: Go ahead.

22          MR. MCKNIGHT: I mean, I would like  
23          to go over the actual exhibits if you don't  
24          mind and just point out the particulars that  
25          are beneficial to my claim.

26          Here we have in Exhibit A, I would like  
27          the Commissioner to take judicial note that

1 Ms. Helen Kemp has actually, contrary to  
2 what was, you know, presented by the state,  
3 I was actually terminated on May 26th, 1994,  
4 as opposed to May 24th of 1995. That --  
5 what do you call it? The so-called  
6 resignation letter references, that date on  
7 the paper? If you understand what I'm  
8 saying on page 2 of the letter?

9 THE COMMISSIONER: I don't have --

10 MR. MCKNIGHT: If I could read it  
11 into -- it says, "our records indicate that  
12 your last day of active employment with the  
13 State of Connecticut was May 26th, 1994."  
14 This is Exhibit A. So that clearly states  
15 that. And I would like you, for the record,  
16 to just make the reference to the  
17 resignation letter moot, as I couldn't --  
18 there's no way I could have resigned being  
19 that I was terminated and not knowing that I  
20 was terminated to resign, if you understand  
21 what I'm saying. I'm just putting it on  
22 the record.

23 THE COMMISSIONER: I do, Mr.  
24 McKnight. And, you know, I'm going to let  
25 you do exactly what you need to do, but put  
26 it in your brief as well, okay.

27 MR. MCKNIGHT: I will put it in my

1           brief.

2           THE COMMISSIONER: Normally, that's  
3           how it's handled. Those are all evidence,  
4           those are all full exhibits, I have to look  
5           them over, I have to rely on what's put in  
6           there and what your arguments are. But if  
7           you just want to point some things out in  
8           each of the exhibits, sure.

9           MR. MCKNIGHT: I just want to point  
10          a couple of things out.

11          THE COMMISSIONER: Sure.

12          MR. MCKNIGHT: And I would like the  
13          Commissioner to take note that Michael  
14          Cozzolino, he is a retired hazardous duty  
15          employee with the State of Connecticut that  
16          received compensable body injuries under  
17          5-142, and he since -- he received his --  
18          when you asked me earlier about the credit  
19          for service, he received his credit for  
20          services.

21          So what I'm asking is for the Commission,  
22          along with the Attorney General's Office, to  
23          review Mr. Michael Cozzolino's file and  
24          determine what it was that affected him  
25          receiving his credit of service as opposed  
26          to mine not receiving my credit of service.

27          Do you understand what I'm saying?



1 THE COMMISSIONER: Yes, I think I  
2 do, Mr. McKnight, but --

3 MR. MCKNIGHT: I mean, you asked me  
4 the question earlier, and what I'm saying is  
5 Mr. Cozzolino was before this Commission,  
6 and he received his benefits.

7 Now, I'm asking the Commission that  
8 whatever the Commission and Attorney  
9 General's Office did to affect his benefits  
10 I would like the Commission and Attorney  
11 General's Office to do to affect my  
12 benefits, because I am injured under the  
13 Connecticut 5-142(a) statute.

14 THE COMMISSIONER: You have two  
15 open files, Mr. McKnight -- we knee agree on  
16 that?

17 MR. MCKNIGHT: Right.

18 THE COMMISSIONER: -- for two dates  
19 of injuries, but I'm a little confused. And  
20 I'm not trying to be argumentative or  
21 difficult, all right, you want me to take a  
22 look at Cozzolino's file --

23 MR. MCKNIGHT: Well --

24 THE REPORTER: You have to let him  
25 finish. One at a time.

26 THE COMMISSIONER: I know  
27 Cozzolino, Mr. McKnight, because I heard his

1 case. In fact, I dismissed part of his  
2 case --

3 MR. MCKNIGHT: Right.

4 THE COMMISSIONER: -- as I recall,  
5 so I'm intimate with the details of that  
6 case.

7 Why -- how is that applicable to your  
8 case? I mean, each case is different. You  
9 know that.

10 MR. MCKNIGHT: It's not applicable  
11 to the point of where his case is any way  
12 having to do with my case --

13 THE COMMISSIONER: Right.

14 MR. MCKNIGHT: -- but what I'm  
15 saying is that if you have -- and this is  
16 just a standard administrative procedure --  
17 if you have an A and a B affected by the  
18 same condition, you should have the same  
19 outcome.

20 So what I'm saying is if Mr. Cozzolino  
21 was a Corrections Officer like I was a  
22 Corrections Officer, Mr. Cozzolino got  
23 injured like I got injured, Mr. Cozzolino  
24 received the benefits, and I didn't.

25 So I think it's incumbent upon this  
26 administration to go and see what it was  
27 that caused him to affect his benefits and I

1 don't have mine, and I have the same  
2 decision as Mr. Cozzolino where it was  
3 determined that he has a work compensable  
4 injury.

5 THE COMMISSIONER: I'm not aware of  
6 any concept in the law that would deal with  
7 -- you can pick 10 files and say, hey,  
8 Commissioner Delaney, you should look at  
9 these files because this is what happened  
10 here, what happened there. This is your  
11 day. Cozzolino is a whole different case,  
12 Mr. McKnight.

13 MR. MCKNIGHT: And this is what I'm  
14 entering in, the decision of Commissioner  
15 Miles. And if I could, just for the record?

16 THE COMMISSIONER: Sure. Sure.  
17 It's your day. Go ahead.

18 MR. MCKNIGHT: Okay. I'll enter it  
19 in as a record. As a matter of record,  
20 "based upon the foregoing, it is hereby  
21 found and concluded the claimant suffered  
22 compensable bodily injuries on September 4  
23 of 1989, and April 26th, 1993, which claims  
24 remain open under Chapter 568 and under  
25 which the Claimant may seek to recover  
26 further benefits, such as....," et cetera, et  
27 cetera, et cetera.

1 THE COMMISSIONER: Right.

2 MR. MCKNIGHT: But the only  
3 significant thing is that on April 26th,  
4 1993, the claimant suffered compensable  
5 bodily injuries. The statute -- Connecticut  
6 General Statutes 5-142(a), which is what  
7 we're -- which is the reason we're here for,  
8 says that if any Corrections Officer  
9 received any injury -- and Commissioner  
10 Miles stated that I received the injury -- I  
11 shall be compensated five years full salary,  
12 thereafter to be reduced to 50 percent of my  
13 salary --

14 THE COMMISSIONER: Well, Mr.  
15 McKnight --

16 MR. MCKNIGHT: -- for the time of  
17 the injury.

18 THE COMMISSIONER: -- that statute  
19 says if you are totally disabled for a  
20 period of five years. I don't know what the  
21 medicals are. Maybe the medicals  
22 substantiate that claim, then you are  
23 entitled to your full benefit for five  
24 years, then it's reduced to 50 percent. We  
25 both read the statute. That's totally  
26 disabled, not partially disabled, all right.

27 MR. MCKNIGHT: Okay.

1 THE COMMISSIONER: So, for -- and I  
2 -- and you're correct, you do -- and I  
3 agree with your interpretation -- or reading  
4 of Commissioner Miles' decision. You do  
5 have two open files which you are entitled  
6 to make claims under Chapter 568 for medical  
7 and indemnity benefits, but you're going  
8 under 5-142, which is --

9 MR. MCKNIGHT: Okay. Well -- and  
10 that's OK that I'm agreeing with you, but if  
11 you allow me to --

12 THE COMMISSIONER: Sure.

13 MR. MCKNIGHT: -- it also states  
14 that under Connecticut General Statute,  
15 which is to be interpreted along with 5-142,  
16 it says that the claimant shall continue to  
17 receive credited service.

18 THE COMMISSIONER: While you're an  
19 employee. I think this is -- well, I don't  
20 know what it's going to boil down, but  
21 that's correct. Assuming you are  
22 temporarily partially disabled or totally  
23 disabled and then -- you're temporarily  
24 partially disabled and they couldn't  
25 accommodate you, absolutely, your time is  
26 still going to accrue. I think we agree on  
27 that interpretation of the statute.

1 MR. MCKNIGHT: Okay.

2 THE COMMISSIONER: I'm not sure  
3 you and I agree on what the statute says in  
4 terms of TT before it reduces to 50 percent  
5 after five years. I think you and I  
6 disagree on that part, but I'll be happy to  
7 read your brief.

8 MR. MCKNIGHT: Okay. And I'll go  
9 over it again in my brief.

10 THE COMMISSIONER: Sure.

11 MR. MCKNIGHT: But it says here in  
12 the Blumenthal letter, Exhibit E, it says  
13 that "new workers' compensation legislation  
14 affecting rights and obligations as between  
15 the parties and not specifying otherwise  
16 apply only to those persons who receive  
17 injuries after the legislation became  
18 effective." So, therefore, the total  
19 disability and what you're referring to it  
20 relates those legislative acts that were  
21 taken after the 2005.

22 1993 -- the 1993 proposal and the change  
23 of the laws does not affect the injuries  
24 before 1993 of April, because the  
25 legislation came in effect in July. My  
26 injury in fact happened in April.

27 THE COMMISSIONER: So what you're

1 suggesting that this section of the statute  
2 is not applicable in terms of --

3 MR. MCKNIGHT: No. What I'm is as  
4 far as the time and the statute my injury  
5 occurred in April. The change in the  
6 statute which you referenced happened in  
7 July.

8 THE COMMISSIONER: Got you.

9 MR. MCKNIGHT: So my injury  
10 actually is under the legislation prior to  
11 the change in the Workers' Comp (sic).

12 THE COMMISSIONER: The old Act,  
13 that's correct. The date of injury rule  
14 applies, that's correct.

15 MR. MCKNIGHT: Right. And I would  
16 ask the Commissioner also to reference my  
17 personnel record which --

18 THE COMMISSIONER: Hold on one  
19 second. Now, what -- and I'm not trying  
20 to be argumentative, I want to be clear,  
21 because I'll take a look -- I don't have --  
22 I have not -- I don't have the old statute.  
23 What does the old statute say that's  
24 different -- I'm talking about 5-142(a).

25 MR. MCKNIGHT: Oh, it says that.

26 THE COMMISSIONER: What does it say  
27 that's different than the new statute, Mr.

1 McKnight?

2 MR. MCKNIGHT: Oh, what you're  
3 referring to with totally disability and,  
4 like, it makes reference to such person. I  
5 argued that at the Appellate Court in the  
6 brief and my argument in front of the  
7 Appellate Court, where the reference is made  
8 to any person. The change in the statute in  
9 2000 and 2005, et cetera, states that such  
10 person.

11 So when you state to such person, it  
12 relates to the totally incapacitated person,  
13 not the injured person. That's the change  
14 in the statute. That statute was changed to  
15 reflect the total disability people in 2005.  
16 That's after my injury.

17 THE COMMISSIONER: I'm not trying  
18 to be argumentative with you. I'm missing  
19 it, so go slow with me, okay.

20 What's different in 142 from the -- and we  
21 both agree you're under the old statute --

22 MR. MCKNIGHT: Right.

23 THE COMMISSIONER: -- the statute  
24 that was amended in 93.

25 MR. MCKNIGHT: Right.

26 THE COMMISSIONER: What's different  
27 in that statute that affects your claim



1 subsequent? Let's try it that way.

2 MR. MCKNIGHT: Like right now?

3 THE COMMISSIONER: Yes.

4 MR. MCKNIGHT: Okay, what I'm  
5 saying is if an individual was to get  
6 injured after the statute came in effect --

7 THE COMMISSIONER: In 93.

8 MR. MCKNIGHT: -- in 93, after  
9 that --

10 THE COMMISSIONER: Right.

11 MR. MCKNIGHT: -- they would not  
12 receive the same benefits as I would  
13 receive. Like say, if were injured after  
14 July 1993, you wouldn't receive the same  
15 benefits I receive.

16 THE COMMISSIONER: What benefits  
17 would they be? You mean, in terms of money  
18 or --

19 MR. MCKNIGHT: It's not a benefit.  
20 What happens is the law that changed  
21 actually puts that election into the state's  
22 and not the employee's hands, the option to  
23 -- like, say, now since 2005 the Department  
24 of Corrections could actually terminate you  
25 when you become injured. Before, they  
26 couldn't terminate you. Now they can. In  
27 2005, they can actually terminate you for

1           being injured.

2           THE COMMISSIONER: While you're  
3           collecting benefits or --

4           MR. MCKNIGHT: I mean, if you're  
5           hurt and you come to work and you say my  
6           doctor said I can't do the job no more, you  
7           can't continue to receive 5-142(a) benefits  
8           because now --

9           THE COMMISSIONER: That's correct.

10          MR. MCKNIGHT: But 1993 you could.

11          THE COMMISSIONER: Okay. Well, I  
12          haven't looked at the statute, so maybe --  
13          all right, thank you. I wasn't getting what  
14          you're saying.

15          MR. MCKNIGHT: Right. That's what  
16          the legislation mean why -- when I went and  
17          researched it, and that's what they meant in  
18          archives when they said are these generous  
19          benefits? Like, when do they stop? And the  
20          reason they want us to put an end to the  
21          5-142 benefits because they don't stop.

22          THE COMMISSIONER: That's fair  
23          enough. And I know you've done some  
24          research. You know, it would be helpful,  
25          Mr. McKnight, if you could, because it would  
26          save you some time, if you picked up the  
27          legislative history when you -- and I know

1           you know what that is -- attach it to your  
2           brief, will you. Otherwise, I'm going to  
3           take a look at it. I mean, if it's not  
4           clear to me, I'm going to take a look at  
5           the legislative history as well, okay.

6           MR. MCKNIGHT: Okay, I will. And I  
7           included that part right there, what I just  
8           explained to you, in one of my briefs that I  
9           submitted. So it's in there.

10          THE COMMISSIONER: Okay.

11          MR. MCKNIGHT: I'll resubmit it and  
12          put it together.

13          THE COMMISSIONER: That would be  
14          great. If you would just put it all in one  
15          packet for me or if you want to see what's  
16          in here, just put it together so I know  
17          exactly what you want me to look at, in  
18          addition to the exhibits.

19          MR. MCKNIGHT: I will.

20          Okay, we have Claimant's Exhibit C. Did  
21          we already --

22          THE COMMISSIONER: We left it at B  
23          because I didn't understand what I was doing  
24          about -- your employee separation form, was  
25          it?

26          MR. MCKNIGHT: Okay, let's go with  
27          Claimant Exhibit F. That's the Doctor's

1 report.

2 THE COMMISSIONER: Yes.

3 MR. MCKNIGHT: And that will show  
4 that, on page 3, the Doctor actually  
5 permanently disqualified me from the job of  
6 a Corrections Office.

7 THE COMMISSIONER: He said you  
8 could no longer be a Corrections Officer?

9 MR. MCKNIGHT: That's correct.

10 THE COMMISSIONER: Okay.

11 MR. MCKNIGHT: And Claimant's  
12 Exhibit E, we actually have the  
13 cost-of-living where I should have received  
14 my cost-of-living, of course, with my  
15 paycheck.

16 THE COMMISSIONER: All right.

17 MR. MCKNIGHT: On Claimant's  
18 Exhibit M, as far as Hudson and the  
19 DeLarosa, I'll include that in my brief.

20 THE COMMISSIONER: That's fair  
21 enough.

22 MR. MCKNIGHT: I don't want to  
23 waste too much time on that.

24 THE COMMISSIONER: Okay.

25 MR. MCKNIGHT: Claimant's Exhibit  
26 H, we'll go to page 9 where I question state  
27 -- then State Personnel Officer Linda Fowler

1 where she actually said I did not retire  
2 from state. So I should subsequently been a  
3 state employee as opposed to the letter that  
4 I referenced earlier where it says I'm not a  
5 state employee.

6 THE COMMISSIONER: Okay.

7 MR. MCKNIGHT: Okay, we -- I think  
8 I did Claimant's D.

9 THE COMMISSIONER: Yes, you did.

10 MR. MCKNIGHT: Was that Blumenthal  
11 letter?

12 THE COMMISSIONER: Yes.

13 MR. MCKNIGHT: Okay, as we  
14 reference that, I would just like to make  
15 the -- note that this is the document where  
16 I'm supposed to continue to receive my  
17 health care benefits, which were stopped.  
18 So -- and leave of payments for time lost  
19 due to employment-related injuries, which is  
20 the page -- 3rd page, and it continues from  
21 chapter 565 as it relates to section 5-142  
22 and provided in pertinent part.

23 That's pretty much the gist of it.

24 THE COMMISSIONER: Okay.

25 MR. MCKNIGHT: I will submit my  
26 brief.

27 THE COMMISSIONER: Thank you.

1 MR. MCKNIGHT: And have it to you  
2 as soon as possible.

3 THE COMMISSIONER: Well, I want to  
4 hear from Attorney Summers, and then -- if  
5 she wants to say something, fine.  
6 Otherwise, I'll be happy to read her brief.

7 Ms. Summers?

8 MS. SUMMERS: Commissioner, the  
9 only thing I would indicate is that should  
10 you, on review of the records, determine  
11 that the Claimant is entitled to additional  
12 relief, what you can order is 5-142(a)  
13 benefits, but this is not an -- we have, I  
14 believe, cleared things up, that this is  
15 not, again, a 31-290a claim.

16 THE COMMISSIONER: That's correct.

17 MS. SUMMERS: So you would not be  
18 able to award him back wages, which is what  
19 you could do under -- someone could do under  
20 290a.

21 What you could award him, though, is the  
22 benefits he's entitled to under 5-142(a),  
23 which under that statute as we all know, are  
24 -- is all of his wages, and earnings, and  
25 things of that nature that come along with  
26 that benefit pursuant to our case law.

27 THE COMMISSIONER: Okay. Then if

1           you don't have anything further, Mr.  
2           McKnight?

3           MR. MCKNIGHT: No, sir.

4           THE COMMISSIONER: You're all set?

5           MR. MCKNIGHT: I'm all set.

6           THE COMMISSIONER: Now, Attorney  
7           Summers, do you need a copy of the  
8           transcript or you need some time to prepare  
9           a proposed findings and a brief?

10          MS. SUMMERS: I would like to  
11          prepare a brief -- or proposed findings,  
12          anyway. I'm --

13          THE COMMISSIONER: I'll give you an  
14          opportunity to file a reply if you'd like,  
15          okay, because I know what you're going to  
16          say. Because maybe Mr. McKnight is going to  
17          raise something, and if you want to say this  
18          isn't germane or is germane or you want to  
19          address an issue, that's fine, okay.

20          MS. SUMMERS: So you'll schedule a  
21          brief for Mr. McKnight and then I'll have an  
22          opportunity to do a reply brief at some  
23          point?

24          THE COMMISSIONER: We'll do  
25          simultaneous briefs and then I'll give you  
26          a reply if you want to do a reply, okay.

27          MS. SUMMERS: That's fine.

1 THE COMMISSIONER: I'm not trying  
2 to give you extra work, but maybe we can  
3 just do it in one shot.

4 What would be a reasonable time? I know  
5 you have a family, I know you have  
6 vacations. What do you need? Do you need  
7 30 days? Forty-five (45) days?

8 MS. SUMMERS: Right. Well, I  
9 think --

10 THE COMMISSIONER: He's ready to do  
11 his tomorrow (laughing).

12 MS. SUMMERS: I'm just saying  
13 whenever he submits his -- I don't know, 30  
14 days after he submits his? Is that  
15 reasonable? Unless I need an extension,  
16 which I don't expect.

17 THE COMMISSIONER: Okay, fine.  
18 Then you can ask for --

19 MS. SUMMERS: Is that acceptable?

20 MR. MCKNIGHT: I'll be ready as  
21 soon as I get home. As soon as I get back  
22 to Philly, I'll have you something.

23 THE COMMISSIONER: Mr. McKnight, if  
24 you want, maybe Mr. Leon can spend a minute  
25 with you and go over -- or you can just  
26 resubmit everything you wanted me to --  
27 because I know you filed some things as



1 we've gone along.

2 MR. MCKNIGHT: Do you have all  
3 this? I mean, I'm just going to give you  
4 this.

5 THE COMMISSIONER: If you need  
6 copies, because we'll make you copies.

7 MR. MCKNIGHT: No-no, I don't need  
8 copies. I'm just going to take note of  
9 them.

10 THE COMMISSIONER: Oh, absolutely.

11 MR. MCKNIGHT: You could have  
12 these.

13 THE COMMISSIONER: You know,  
14 actually, Mr. McKnight, Mr. Leon does -- he  
15 does a printout for me about what the  
16 exhibits are, a listing of the printout. If  
17 you want, we can send that to you, or if you  
18 wanted to make your own notes, that's fine,  
19 too.

20 MR. MCKNIGHT: I'll just make my  
21 notes.

22 THE COMMISSIONER: Okay, that's  
23 fine. Then that will conclude today's  
24 hearing. And, Mr. McKnight, good luck to  
25 you.

26 MR. MCKNIGHT: Thank you.

27 THE COMMISSIONER: Thank you for

1           being a gentleman.. Thank you, Ms. Summers.

2                   MS. SUMMERS: Thank you,  
3           Commissioner.

4                   (WHEREUPON, THE RECORD WAS  
5           ADJOURNED AT 2:06 p.m.)

## C E R T I F I C A T E

I hereby certify that the foregoing  
pages is a complete and accurate  
transcription of my original stenographic  
notes in the matter of Anthony McKnight v.  
State of Connecticut/Department of  
Corrections, and GAB Robins North America  
held before the Honorable Stephen B.  
Delaney, Commissioner, Workers'  
Compensation, First District, 999 Asylum  
Avenue, Hartford, Connecticut, on May 5,  
2010.

Wilfred Leon  
Chief Hearing Reporter  
First District